

Congress of the United States
Washington, DC 20515

***H.R. 4167 Threatens State Laws Requiring
Signs Warning About the Risks of Alcohol Use
During Pregnancy***

March 6, 2006

Dear Colleague:

In an effort to increase awareness of the dangers of alcohol use during pregnancy, at least 19 states and the District of Columbia have enacted laws requiring that warnings are posted where alcohol is sold.¹ It is widely recognized that drinking during pregnancy causes fetal alcohol syndrome, which encompasses a host of alcohol-related birth defects and neurodevelopmental disorders, including mental retardation. States laws require stores selling alcoholic beverage to post a sign including warnings such as: "Warning: Drinking Alcoholic Beverages During Pregnancy Can Cause Birth Defects."

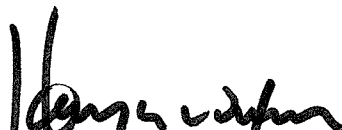
H.R. 4167 threatens these laws. This legislation would preempt state laws requiring warnings about the health or safety risks presented by foods regulated by the FDA, unless the state gets FDA's consent to maintain or pass such laws. The bill broadly defines warning notifications to include not just labels placed directly on foods and beverages, but also posters, public notices, advertising and any other means of communication.

Although the Bureau of Alcohol, Tobacco and Firearms regulates many types of alcoholic beverages, FDA regulates wine beverages and cider with alcohol content of less than 7% by volume. FDA also has oversight of alcoholic beverages for the purposes of protecting against the presence of deleterious substances. Under H.R. 4167, states would be unable to maintain or pass laws that would require stores selling these types of beverages to post signs warning of the dangers associated with drinking alcohol during pregnancy, unless FDA decides to allow them to do so.

H.R. 4167 threatens to endanger women and their unborn children by prohibiting the posting of potentially life-saving information. Yet, in 8 years, there has never been a hearing on this dangerous legislation to explain why preempting these state alcohol warning laws could possibly be a good idea.

Attached is a joint letter from the Center for Science in the Public Interest and the National Organization on Fetal Alcohol Syndrome expressing their concerns about the impact of H.R. 4167 on these important state laws.

I urge you to oppose H.R. 4167 when it goes to the House floor for a vote this week.


HENRY A. WAXMAN

Sincerely,


LUCILLE ROYBAL-ALLARD


FRANK PALLONE, JR.

¹ In addition to the District of Columbia, the following 19 states have passed alcohol warning laws: Alaska, Arizona, California, Delaware, Georgia, Illinois, Kentucky, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Oregon, South Dakota, Tennessee, Washington, West Virginia.



WARNING: H.R. 4167 Threatens State and Local Laws that Educate Consumers on the Risks of Drinking During Pregnancy

March 6, 2006

Dear Representative:

We write to share our serious concern that the National Uniformity for Food Act of 2005 (H.R. 4167) threatens state and local efforts to prevent fetal alcohol syndrome, the nation's leading known preventable cause of mental retardation and other alcohol-related birth defects.

Based on our reading of the bill, and the FDA's shared jurisdiction over alcohol labeling and advertising issues with the Alcohol and Tobacco Tax and Trade Bureau, we are very concerned that the bill may be construed to pre-empt or nullify state and local laws requiring warning signs about the risks of drinking during pregnancy at the point of sale, including bars and restaurants. California's Proposition 65 and laws in 18 other states and the District of Columbia provide for such warning signs where alcohol is sold and served.

Out of concern for the continued unacceptable prevalence of costly and disabling fetal alcohol spectrum disorders, the U.S. Surgeon General a year ago issued an updated public health advisory urging women who are pregnant or who may become pregnant to abstain from alcohol. Recent data indicate that significant numbers of women continue to drink during pregnancy, many in a high-risk manner that places the fetus at risk for a broad range of problems arising from prenatal alcohol exposure including fetal alcohol syndrome. For example, data suggest that rates of binge drinking and drinking seven or more drinks per week among both pregnant women and non-pregnant women of childbearing age have not declined in recent years. Too many women who know they are pregnant report drinking at those levels.

We cannot risk the possibility that this bill could severely hamper state and local efforts to disseminate essential public health information about drinking during pregnancy. For these reasons, we urge you not to support it.

Thank you for your consideration.

Sincerely,

George A. Hacker
Director
CSPI Alcohol Policies Project

Tom Donaldson
President
National Organization on
Fetal Alcohol Syndrome